



DEPARTMENT OF THE ARMY  
U.S. ARMY TRIAL DEFENSE SERVICE  
FORT LEAVENWORTH FIELD OFFICE  
FORT LEAVENWORTH, KANSAS 66027-2313

ATZL-SJA-TD

23 April 2012

1. U.S. v. Giles, 386 U.S. 66 (1967)
  - a. Police reports. One included interviews with the complaining witness, as well as another key government witness. Said interviews included statements that were inconsistent with trial testimony.
  - b. Case was remanded. Court did not hold that “preliminary, challenged or speculative” information need not be disclosed.
  - c. No military justice cases cite the language quoted by the government.
2. Levin v. Clark, 408 F.2d 1209 (C.A. D.C. Cir. 1967)
  - a. Giles mentioned only in a separate statement on rehearing en banc.
  - b. “Where government's grand larceny case was based on testimony that defendant had received \$35,000 from union in small bills obtained at bank after defendant had refused \$1,000 bills, government's failure to reveal to defense a bank officer's statement which might have enabled defense to procure statements from bank personnel that no exchange of bills had taken place entitled defendant to new trial.”
3. Crowder v. U.S., 294 F.Supp. 291 (E.D.MI 1967)
  - a. Cites Giles
  - b. Witness indicated before trial that he would recant his story
4. Davis v. Heyd, 350 F.Supp. 958 (E.D.LA 1972)
  - a. Cites Giles
  - b. Witness statements
5. Layman v. Tollett, 357 F.Supp. 914 (E.D.TN 1972)
  - a. Cites Giles, but notes that the Court did not agree on an opinion
  - b. Prosecution notes and memoranda
6. U.S. v. Brewer, 367 F.Supp. 156 (S.D.N.Y. 1973)
  - a. Cites Giles
  - b. Witness statements
7. U.S. v. Agurs, 427 U.S. 97 (1976)
  - a. Background information on victim, which would have tended to support the theory that the accused acted in self-defense.
  - b. Accused not deprived of fair trial because she did not request the information and it gave no inference of perjury.
  - c. The Court did note: “Because we are dealing with an inevitably imprecise standard, and because the significance of an item of evidence can seldom be predicted accurately until the

entire record is complete, the prudent prosecutor will resolve doubtful questions in favor of disclosure,” at 108.

d. Giles appears only in a footnote.

8. U.S. v. Dansker, 449 F.Supp. 1057 (D.N.J. 1977)

a. Evidence related to witness credibility

9. U.S. v. Peltier, 553 F.Supp. 890 (D.N.D. 1983)

a. Documents reporting preliminary autopsy findings, the possible involvement and presence of other people, and various descriptions of the vehicle the agents followed

10. Stano v. Dugger, 883 F.2d 900 (C.A. 11th Cir., 1989)

a. One officer’s belief that the accused falsely confessed. Said officer’s opinion differed from the other detectives, his superiors and the state attorney.

11. U.S. v. Diaz, 922 F.2d 998 (C.A. 2d Cir., 1990)

a. Government suspected witness of theft, but did not have actual knowledge of the theft until after the trial.

12. U.S. v. Amiel, 95 F.3d 135 (C.A. 2d Cir., 1996)

a. A discredited Government witness identified another witness as an affiliate of organized crime. The prosecution interviewed the second witness and found nothing to support the allegation. The Government did not turn over the interview.

13. Shaut v. Bennet, 289 F.Supp.2d 354 (W.D.NY. 2003)

a. Cites Diaz

b. Pre-sentence report, including witnesses statements

14. U.S. v. Jackson, 2006 WL 3022974 (N.D.Ohio)

a. Cites Diaz

b. Audio recording between two witnesses, which was inaudible.

15. Diaz v. Smith, 2007 WL 946196 (S.D.N.Y.)

a. Cites Augurs

b. Unconfirmed allegations against officer involved in Petitioner’s case were made on date of sentencing. Allegations were investigated, officer was arrested and Defense was informed.

16. U.S. v. Eubanks, Bowan & Simpson, 1997 WL 401667 (S.D.N.Y.)

a. Cites Amiel

b. Three pre-trial investigations

17. U.S. v. Gotti, 171 F.R.D. 19 (E.D.N.Y. 1997)

a. Cites Amiel

b. Witness affidavits

18. Cabrera v. Artus, 2008 WL 4146362 (E.D.N.Y.)

a. Cites Amiel

b. Government did not disclose information related to another crime, also featuring guns and bicycles, that occurred after the crime for which Petitioner was convicted.

19. DeChirico v. Walker, 558 F.Supp.2d 355 (E.D.N.Y. 2008)

a. Cites Amiel

b. False report by witness that was not known until after the witness testified.

c. Case indicates that it is “arguable” whether such information is discoverable under Amiel, though a better practice would have been to disclose. See Augur

20. U.S. v. Neeley, 308 Fed.Appx. 870 (C.A. 6th Cir., 2009)

a. Cites Amiel

b. Investigation was not disclosed

21. U.S. v. Sessa, 2011 WL 256330 (E.D.N.Y.)

a. Cites Amiel

b. Police investigation reports containing witness statements that could be used for impeachment